

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

UNITED STATES DISTRICT COURT

for the

DISTRICT OF NEVADAFILED
ENTEREDRECEIVED
SERVED ON
COUNSEL/PARTIES OF RECORD

NOV 16 2020

CLERK US DISTRICT COURT

2:20-cv-02109-APG-VCF

Jury Trial: (check one) ☒ Yes ☐ NoEDWARD E. SEELY

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

CITY OF LAS VEGAS (DOES 1-10 OR/DOES 1-10)NEVADA STATE PUBLIC WORKS DIVISION(DOES 1-10 OR/AND DOES 1-10 CORPORATIONS)

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

VIOLATIONS OF THE AMERICANS WITH
DISABILITIES ACT AND ITS ACCESSIBILITY
GUIDELINES STRUCTURAL REQUIREMENTS
RESULTING IN PERSONAL INJURY

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

EDWARD E. SEELY

Street Address

453 N. 11ST APT B

City and County

LAS VEGAS, CLARK COUNTY

State and Zip Code

NEVADA 89101

Telephone Number

1-702-680-9002

E-mail Address

dancangman4life@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

Defendant No. 1

Name CITY OF LAS VEGAS (JOHN/JANE DOES 1-10 OR AND
 Job or Title (if known) DOES 1-10)
 Street Address 495 SOUTH MAIN ST. 89101
 City and County LAS VEGAS OF CLARK COUNTY
 State and Zip Code NEVADA, 89101
 Telephone Number 1-702-229-6011
 E-mail Address (if known) N/A (LASVEGASNEVADA.GOV)

Defendant No. 2

Name NEVADA STATE PUBLIC WORKS DIVISION (JOHN/JANE
 Job or Title (if known) DOES 1-10 AND/OR DOES 1-10 (CORPORATIONS)
 Street Address 2300 MABLEOOD ST.
 City and County LAS VEGAS, CLARK COUNTY
 State and Zip Code NEVADA, 89104
 Telephone Number 1-702-486-5115
 E-mail Address (if known) _____

Defendant No. 3

Name _____
 Job or Title (if known) _____
 Street Address _____
 City and County _____
 State and Zip Code _____
 Telephone Number _____
 E-mail Address (if known) _____

Defendant No. 4

Name _____
 Job or Title (if known) _____
 Street Address _____
 City and County _____
 State and Zip Code _____
 Telephone Number _____
 E-mail Address (if known) _____

I.) INTRODUCTION

THE TRUE NAMES OR CAPACITIES, WHETHER INDIVIDUAL, CORPORATE, ASSOCIATE OR OTHERWISE OF DEFENDANTS DOES 1-10 AND/OR ROES CORPORATIONS 1-10 INCLUSIVE, UNKNOWN TO PLAINTIFF WHO, THEREFORE, SUES SAID DEFENDANTS BY SUCH FICTITIOUS NAMES;

PARAGRAPH #1, THE PLAINTIFF IS INFORMED, BELIEVE AND ALLEGE THAT DEFENDANTS DESIGNATED HEREIN AS A DOE AND/OR ROE CORPORATIONS ARE ANY ONE OF THE FOLLOWING;

(a). A PARTY RESPONSIBLE IN SOME MANNER FOR THE EVENTS AND HAPPENINGS HEREUNDER REFERRED TO, AND IN SOME MANNER PROXIMATELY CAUSED INJURIES AND DAMAGES TO THE PLAINTIFF AS HEREIN ALLEGES INCLUDING, BUT NOT LIMITED TO, RESPONSIBLE FOR THE PLAINTIFFS INJURIES AT ISSUE;

(b). PARTIES THAT WERE THE AGENTS, SERVANTS, AUTHORITIES, AND CONTRACTORS OF THE DEFENDANTS, EACH OF THEM ACTING WITHIN THE COURSE AND SCOPE OF THEIR AGENCY, EMPLOYMENT OR CONTRACT;

(c). PARTIES THAT OWN, LEASE, MANAGE, OPERATE, SECURE, INSPECT, REPAIR, MAINTAIN, AND/OR ARE RESPONSIBLE FOR THE "SIDEWALKS" AND/OR "CURB RAMPS" IN QUESTION BY THE DEFENDANTS AT THE TIME OF THIS INCIDENT; AND/OR...

(d). PARTIES THAT HAVE ASSUMED OR RETAINED THE LIABILITIES OF ANY OF THE DEFENDANTS BY VIRTUE OF AN AGREEMENT, SALE, TRANSFER OR OTHERWISE.

PARAGRAPH #2, PLAINTIFF IS INFORMED, BELIEVES AND THEREON ALLEGES THAT DEFENDANTS, DOES 1-10 ARE EMPLOYEES OF THE DEFENDANTS WHO MAY BE LIABLE FOR DEFENDANTS NEGLIGENCE PURSUANT TO NRS 41.130, WHICH STATES;

"EXCEPT AS OTHERWISE PROVIDED IN NRS 41.745, WHENEVER ANY PERSON SHALL SUFFER PERSONAL INJURY BY WRONGFUL ACT, NEGLIGENCE OR DEFAULT

1 OF ANOTHER, THE PERSON CAUSING THE INJURY IS
 2 LIABLE TO THE PERSON INJURED FOR DAMAGES; AND
 3 WHERE THE PERSON CAUSING THE INJURY IS EMPLOYED
 4 BY ANOTHER CORPORATION RESPONSIBLE FOR THIS
 5 CONDUCT, THAT PERSON OR CORPORATION SO
 6 RESPONSIBLE IS LIABLE TO THE PERSON INJURED FOR
 7 DAMAGES"

8
 9 A.) THE PARTIES THAT WERE AGENTS, AUTHORITIES, CONTRACTORS, OF THE
 10 DEFENDANTS DOES/DOES 1-10 OR/AND PARTIES THAT OWN, LEASE, MANAGE,
 11 OPERATE, SECURE, INSPECT, REPAIR, MAINTAIN, AND/OR ARE RESPONSIBLE
 12 FOR THE "FEATURE'S" SIDEWALKS AND CURB RAMPS IN QUESTION THAT CAUSED
 13 PLAINTIFFS INJURY, HAD A FEDERAL AND STATE STATUTORY RESPONSIBILITY
 14 AND/OR WAS REQUIRED BY LAW TO COMPLY WITH BOTH FEDERAL AND STATE
 15 ACCESSIBILITY REGULATIONS;

16 UNDER THE STATE LAW OF ACCESSIBILITY OF NRS 338.180 INCLUSIVE,
 17 STATES THE FOLLOWING;

18 "THE LEGISLATURE OF THE STATE OF NEVADA DECLARES THAT;

19 (a) THE PRIMARY PURPOSE OF THIS SECTION IS TO PROVIDE, SUBJECT
 20 TO THE LIMITATIONS SET FORTH IN THIS SECTION, FOR THE REMOVAL
 21 AND ELIMINATION OF ARCHITECTURAL BARRIERS TO PERSONS WITH
 22 A PHYSICAL HANDICAP IN PUBLIC BUILDINGS AND FACILITIES DESIGNED
 23 AFTER JULY 1, 1978, IN ORDER TO ENCOURAGE AND FACILITATE
 24 THE EMPLOYMENT OF PERSONS WITH PHYSICAL HANDICAPS AND
 25 TO MAKE PUBLIC BUILDINGS ACCESSIBLE TO AND USABLE BY
 26 PERSONS WITH A PHYSICAL HANDICAP"

27 (b) "IT IS THE INTENT OF THE LEGISLATURE THAT INsofar AS POSSIBLE
 28 ALL BUILDINGS AND FACILITIES USED BY THE PUBLIC BE ACCESSIBLE

1 TO, AND FUNCTIONAL FOR, PERSONS WITH A PHYSICAL
2 HANDICAP, WITHOUT LOSS OF FUNCTION, SPACE OR
3 FACILITY WHERE THE GENERAL PUBLIC IS CONCERNED"

4 2.) "ALL PLANS AND SPECIFICATIONS FOR THE CONSTRUCTION
5 OF PUBLIC BUILDINGS AND FACILITIES OWNED BY A PUBLIC
6 BODY MUST, AFTER JULY 1, 1973, PROVIDE FACILITIES
7 AND 'FEATURES' FOR PERSONS WITH A PHYSICAL HANDICAP
8 SO THAT BUILDINGS AND FACILITIES WHICH ARE NORMALLY
9 USED BY THE PUBLIC ARE CONSTRUCTED WITH 'RAMPS'...
10 'ACCESSIBLE TO AND USABLE BY PERSONS WITH A PHYSICAL
11 HANDICAP. IN ADDITION, ALL PLANS AND SPECIFICATIONS
12 FOR THE CONSTRUCTIONS OR ALTERATION OF PUBLIC
13 BUILDINGS AND FACILITIES OWNED BY A PUBLIC BODY
14 MUST COMPLY WITH THE APPLICABLE REQUIREMENTS
15 OF THE";

16 (d). "AMERICANS WITH DISABILITIES ACT OF 1990, 42 USC
17 §§ 12101 ET. SEQ., AND THE REGULATIONS ADOPTED
18 PURSUANT THERETO, INCLUDING, WITHOUT LIMITATIONS,
19 THE AMERICANS WITH DISABILITIES ACT ACCESSIBILITY
20 GUIDELINES FOR BUILDINGS AND FACILITIES SET FORTH
21 IN APPENDIX A OF PART 36 OF TITLE 28 OF THE CODE
22 OF FEDERAL REGULATIONS"...
23

24 THE REGULATIONS SET FORTH IN TITLE 28 PART 36, APPENDIX A LISTED IN
25 28 CODE OF FEDERAL REGULATIONS (C.F.R.) §§ 35.150-35.151 ET. SEQ., AS OF 1991,
26 THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD ISSUED
27 THE FIRST A.D.A. ACCESSIBILITY GUIDELINES (ADAAG) WHICH WERE ADOPTED
28 IN FULL AS A.D.A. REGULATIONS FOR GOVERNMENT AND MUNICIPALITIES ALIKE

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

☒ Federal question ☐ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

42 USC § 12101-12134 ET. SEQ., 28 C.F.R. § 35.150-35.157 ET. SEQ., (28 C.F.R. § PART 36, APPENDIX A, SECT. 4, SUBSECT 4.3-4.8) ADA ACCESSIBILITY GUIDELINES
NEVADA REVISED STATUTE 338.150 ET. SEQ.,

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, *(name)* _____, is a citizen of the
State of *(name)* _____.

b. If the plaintiff is a corporation

The plaintiff, *(name)* _____, is incorporated
under the laws of the State of *(name)* _____,
and has its principal place of business in the State of *(name)* _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, *(name)* _____, is a citizen of
the State of *(name)* _____. Or is a citizen of
(foreign nation) _____.

b. If the defendant is a corporation

The defendant, (name) _____, is incorporated under the laws of the State of (name) _____, and has its principal place of business in the State of (name) _____.

Or is incorporated under the laws of (foreign nation) _____, and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because (explain):

PLAINTIFF SUES FOR DAMAGES IN THE AMOUNT OF \$100,000 FOR HIS PERSONAL INJURIES SUSTAINED AS A RESULT OF DEFENDANTS FAILURE TO COMPLY WITH THE STRUCTURAL AND ACCESSIBILITY REQUIREMENTS OF THE A.D.A. FOR BUILDINGS AND FACILITIES, NAMELY ITS "CURB RAMPS" ACCESSIBILITY

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

ON NOVEMBER 16TH, 2018 PLAINTIFF SUSTAINED A BROKEN LEFT TIBIA AS A RESULT OF A STEEP CURB RAMP LOCATED ON CHARLSTON BLVD AND MARYLAND PKWY. THE CURB RAMP IS NOT IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES SET FORTH IN 28 CFR § 35.150-35.151 (28 C.F.R. PT 36. AAAA SECT 4 SUBSECT 4.3-4.8) THE DEFENDANTS ARE RESPONSIBLE FOR/ OR AND OWN, LEASE, MANAGE, OPERATE, MAINTAIN, REPAIR, SECURE OR/ AND CONSTRUCTION OF "SIDEWALKS" AND/ OR "CURB RAMPS"

IV. Relief

SEE PGS 8-12 HEREIN

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

PLAINTIFF SEEKS COMPENSATORY AND PUNITIVE DAMAGES FROM THE DEFENDANTS INDEPENDANTLY OR/ AND COLLECTIVELY IN THE AMOUNT OF "\$100,000" (ONE HUNDRED THOUSAND DOLLARS) SEE PG 13 HEREIN

III.) STATEMENT OF THE CASE

1 ON NOVEMBER 16TH, 2018, THE "PLAINTIFF" EDWARD E. SEELY WHO IS
 2 A T-4 PARAPLEGIC CONFINED TO HIS WHEELCHAIR, LEFT HIS HOME LOCATED
 3 OFF MARYLAND PKWY IN LAS VEGAS, NEVADA, TO GO SHOPPING AT THE 994
 4 STORE LOCATED AT THE CORNER OF MARYLAND PKWY AND CHARLSTON
 5 BLVD SOME 7 TO 8 BLOCKS AWAY. THE PLAINTIFF'S DIRECT PATH OF
 6 TRAVEL HE USES EVERY WEEK IS ALONG MARYLAND PKWY FOR HIS
 7 SHOPPING NEEDS. AS THE PLAINTIFF WAS ROLLING HIS WHEELCHAIR
 8 SOUTHBOUND ON MARYLAND PKWY TOWARDS CHARLSTON BLVD, HE WAS
 9 REQUIRED TO CROSS THE 7-TO-8 CROSS-STREETS ALONG MARYLAND PKWY
 10 UTILIZING THE PEDESTRIAN RIGHT AWAY CURB RAMP CROSSINGS.

11 EACH ONE OF THESE 7 TO 8 CURB RAMP CROSSINGS ARE ALSO CONNECTED
 12 TO THE SIDEWALKS, HAD BEEN RECENTLY RENOVATED, MODIFIED OR/AND
 13 RECONSTRUCTED IN SLOPE AND RISE FOR BARRIER FREE DEGRESS AND
 14 EGRESS FOR INDIVIDUALS WITH MOBILITY IMPAIRMENTS USING
 15 WHEELCHAIRS TO CROSS THE STREETS WITH EASE. FOR THE PLAINTIFF
 16 THERE WAS A BARRIER FREE TRANSITION FROM SIDEWALK TO STREET
 17 AND BACK TO SIDEWALK ACROSS EACH STREET. AFTER SHOPPING AT THE
 18 994 STORE, THE PLAINTIFF DECIDED TO VISIT THE SAVERS STORE LOCATED
 19 ACROSS CHARLSTON BLVD ON THE SOUTHWEST CORNER.

20 THE PLAINTIFF ASSERTS THAT HE NOTICED THE CURB RAMPS AT THE
 21 INTERSECTION OF CHARLSTON BLVD AND MARYLAND PKWY WERE NOT
 22 MODIFIED, ALTERED OR RECONSTRUCTED LIKE THE CURB RAMPS LEADING
 23 UP TO THAT INTERSECTION FROM HIS PATH OF TRAVEL ALONG MARYLAND
 24 PKWY. THE CURB RAMPS AT CHARLSTON BLVD WERE IN FACT AT A VERY
 25 STEEP DEGRESS ANGLE TRANSITIONING TO THE STREET CROSSING. AS
 26 THE PLAINTIFF STARTED TO CROSS THE STREET OF CHARLSTON BLVD USING
 27 THE CURB RAMP, THE PLAINTIFF LOST CONTROL OF HIS WHEELCHAIR
 28 BECAUSE OF THE STEEP SLOPE ANGLE OF THE CURB RAMP, AND EVEN

1 THOUGH PLAINTIFF TRIED TO PREVENT HIS WHEELS OF HIS WHEELCHAIR FROM
 2 SLIDING DOWN THE CURB RAMP TOWARDS THE INTERSECTION AND INTO TRAFFIC
 3 OF CHARLSTON BLVD, PLAINTIFF WAS UNSUCCESSFUL AND WAS THROWN FROM
 4 HIS WHEELCHAIR INTO THE STREET. AT THIS TIME, PLAINTIFF HEARD A
 5 'POP', INTERNALLY, BEFORE HE CAN RECOVER HIS SENSES HE WAS MET BY
 6 INDIVIDUALS WHO GOT OUT OF THEIR CARS TO HELP HIM UP AND DEPOSITED
 7 HIM BACK INTO HIS WHEELCHAIR. PLAINTIFF IMMEDIATELY FELT PAINFUL
 8 SURGES IN HIS LEFT LEG BELOW HIS KNEE. PLAINTIFF CALLED A FRIEND
 9 TO PICK HIM UP SO HE COULD GO TO THE HOSPITAL, BUT BEFORE HE COULD
 10 GO TO THE HOSPITAL, PLAINTIFF HAD TO GO HOME TO GET HIS MEDICAL
 11 INSURANCE DOCUMENTS, HE ARRIVED AT VALLEY HOSPITAL WITHIN THE
 12 HOUR.

13 THE PLAINTIFF WAS EVALUATED BY INTAKE AND IMMEDIATELY CONSULTED
 14 WITH DOCTORS, WHO ADMITTED PLAINTIFF TO VALLEY HOSPITAL FOR
 15 IMMEDIATE SURGERY, TO PREVENT AMPUTATION OF PLAINTIFFS LEFT LEG.

16 VALLEY HOSPITAL PHYSICIANS DR. HUY N. NGUYEN AND BRIAN WOLFF COURSE
 17 OF SURGICAL ACTION THAT PLAINTIFF SUFFERED A "LEFT LEG PROXIMAL
 18 TIBIA FRACTURE AND WAS CONSULTED ON SUFFERING A ANTERIOR COMPART-
 19 MENT SYNDROME". THE PLAINTIFF WAS TAKEN INTO EMERGENCY SURGERY
 20 FOR A LEFT LEG (4) COMPARTMENT FASCIOTOMY PROCEDURE IN THE EARLY
 21 MORNING OF THE 17TH OF NOVEMBER 2018. DOCTORS HAD TO CUT OPEN BOTH
 22 SIDES OF PLAINTIFFS LEFT LEG FROM THE KNEE TO THE Calf TO RELIEVE
 23 BLOOD PRESSURE IN THE (4) MUSCLE COMPARTMENTS AROUND THE KNEE.

24 ON THE MORNING OF THE 17TH OF NOVEMBER 2018, PLAINTIFF WENT
 25 BACK TO SURGERY SO DOCTORS COULD PERFORM AN "OPEN REDUCTION
 26 INTERNAL FIXATION OF THE LEFT LEG TIBIA PATEAU WITH A METAL PLATE
 27 TO STABILIZE THE TIBIA FRACTURE".

28 THE PLAINTIFF SPENT A WEEK IN THE HOSPITAL AND WAS RELEASED A WEEK

1 LATER ON THANKSGIVING DAY.

2 THE PLAINTIFF RECEIVED HOME HEALTH CARE FOR APPROXIMATELY (2)
3 TWO MONTHS AND EVALUATED FOR PHYSICAL THERAPY BY THE ORTHOPEDIC
4 SURGEON WHO PERFORMED SURGERY ON THE PLAINTIFF. THE PLAINTIFF
5 WAS ALSO CONSULTED BY A PAIN MANAGEMENT SPECIALIST TO MAINTAIN
6 HIS CONTINUOUS LEG PAIN. DURING PLAINTIFFS HOME HEALING PROCESS,
7 DOCTORS REQUIRED HIM TO WEAR A LEG BRACE ON AN LEFT LEG FOR
8 STABILIZATION, AND BECAUSE OF THE WEARING OF THE LEG BRACE, PLAINTIFF
9 DEVELOPED AN ANKLE PRESSURE WOUND, WHICH HE IS CURRENTLY BEING
10 TREATED FOR BY THE VALLEY HYPERBERIC AND WOUND CARE CLINIC
11 IN LAS VEGAS, NEVADA.

12 THE PLAINTIFF ASSERTS, HAD IT NOT BEEN FOR THE STEEP ANGLED
13 CURB RAMP, HE WOULD NOT HAVE BROKEN HIS LEG, ENDURED SURGICAL
14 EMERGENCY SURGERY, HOSPITALIZATION, AND NOW STILL BEING TREATED
15 BY WOUND CARE AND PAIN MANAGEMENT SPECIALIST AS A RESULT OF THE
16 INJURY, OVER THE PAST (2) TWO YEARS

17 THE PLAINTIFF CALLED THE CITY TO PUT THEM ON NOTICE OF THE
18 INACCESSIBILITY OF THE CURB RAMP AT CHARLSTON BLVD, THE CITY TOOK
19 HIS COMPLAINT OVER THE PHONE, THEN INFORMED HIM THAT NEVADA
20 STATE PUBLIC WORKS DIVISION MANAGES THE SIDEWALKS AND CURB RAMPS
21 IN THAT AREA, AND WAS ADVISED TO CALL NEVADA STATE PUBLIC WORKS
22 DIVISION AND MAKE HIS COMPLAINT THERE. THE PLAINTIFF THEN CALLED
23 NEVADA STATE PUBLIC WORKS AND PLAINTIFF WAS INFORMED CITY HAD/
24 OR HAS CONTROL OF THE AREA IN QUESTION. THE PLAINTIFF DECIDED TO
25 CALL BACK THE CITY AND STATE PUBLIC WORKS DIVISION TO PUT THEM ON
26 NOTICE OF HIS INJURY CAUSED BY THE STEEP CURB RAMP AT CHARLSTON BLVD,
27 THEN PLAINTIFF REQUESTED THAT SOMEONE RETURN HIS CALL.

28 THE PLAINTIFF ASSERTS HE CALLED THE CITY REGARDING HIS INJURY, AND HE

1 CALLED NUMEROUS TIMES AND DID NOT RECEIVE A PHONE CALL BACK
 2 THE DEFENDANTS DOES OR/AND DOES CORPORATION 1-10 INDEPENDANTLY,
 3 OR/AND COLLECTIVELY FAILED TO MAINTAIN, ALTER, MODIFY OR/AND RECONSTRUCT
 4 THE CURB RAMP AT THE CHARLSTON BLVD AND MARYLAND PKWY
 5 INTERSECTION PURSUANT TO THE ADAAG ACCESSIBILITY REQUIREMENTS FOR
 6 "CURB RAMPS" LISTED IN 28 C.F.R § 35.150-35.151 ET. SEQ., (28 C.F.R § PART
 7 36, APPENDIX A, SECTION 4, SUBSECTIONS 4.3-4.8) AND THIS FAILURE
 8 CAUSE THE PLAINTIFFS INJURY

9 10 PLAINTIFFS CAUSE OF ACTION

11
12 THE PLAINTIFF ASSERTS HIS CAUSE OF ACTION AGAINST THE CITY OF
 13 LAS VEGAS AND NEVADA STATE PUBLIC WORKS DIVISION DOES/AND OR
 14 DOES/ CORPORATIONS FOR FAILING TO COMPLY WITH THE ACCESSIBILITY A.D.A
 15 REQUIREMENTS FOR PEDESTRIAN RIGHT AWAYS AND "CURB RAMPS" SET FORTH
 16 IN 28 C.F.R PT. 36, APP. A, SECT. 4, SUBJECT 4.3-4.8.

17 THE DEFENDANTS HAVE SHOWN THAT CURB RAMPS ACCESSIBILITY AND/OR
 18 MODIFICATION IS FUNDAMENTALLY POSSIBLE AND WOULD NOT FUNDAMENTALLY
 19 ALTER THE NATURE OF THE CHARLSTON BLVD INTERSECTION CURB RAMP CROSS-
 20 INGS, BUT WOULD BE BENEFICIAL SO WHEN VIEWED IN ITS ENTIRETY, THE
 21 CHARLSTON BLVD INTERSECTION CURB RAMPS WOULD BE ACCESSIBLE TO, FUNCTIONAL
 22 FOR AND USABLE BY INDIVIDUALS WITH MOBILITY IMPAIRMENTS, BECAUSE
 23 THE DEFENDANTS HAVE SHOWN THEY MODIFIED, ALTERED, OR RECONSTRUCTED
 24 THE CURB RAMPS ALONG MARYLAND PKWY LEADING UP TO THE CHARLSTON
 25 BLVD INTERSECTION IN COMPLIANCE WITH THE ACCESSIBILITY REQUIREMENTS,
 26 SET FORTH IN THE ADAAG 28 C.F.R PT 36, APP. A, SECT 4, SUBJECT 4.3-
 27 4.8.

COUNT I

THE PLAINTIFF ASSERTS HIS FIRST CAUSE OF ACTION AGAINST THE CITY OF LAS VEGAS DOES AND/OR DOES CORPORATION 1-10 FOR FAILING TO MAINTAIN, ALTER, MODIFY OR/AND OPERATE ITS PEDESTRIAN RIGHTS AWAY, STREETS, SIDEWALKS AND CURB RAMPS AT CHARLSTON BLVD AND MARYLAND PKWY INTERSECTION IN COMPLIANCE WITH THE ACCESSIBILITY STRUCTURAL REQUIREMENTS SET FORTH IN THE ADAAG 28 C.F.R. § PT. 36, APP. A. SECT 4, SUBSECTIONS 4.3-4.8 OF 28 C.F.R. § 35.150-35.151 ET. SEQ., INCLUSIVE TO STATE LAW ACCESSIBILITY REQUIREMENTS OF NRS 338.180(1),(2). THEREFORE, THESE DEFENDANTS FAILURE TO COMPLY WITH FEDERAL AND STATE ACCESSIBILITY REQUIREMENTS, ARE LIABLE FOR THE INJURIES THE PLAINTIFF SUSTAINED

COUNT II

THE PLAINTIFF ASSERTS HIS SECOND CAUSE OF ACTION AGAINST THE NEVADA STATE PUBLIC WORKS DIVISION DOES OR/AND DOES CORPORATION 1-10 FOR FAILING TO MAINTAIN, ALTER, MODIFY OR/AND OPERATE THE PEDESTRIAN RIGHT AWAYS, SIDEWALKS AND CURB RAMPS AT THE CHARLSTON BLVD AND MARYLAND PKWY INTERSECTION, OR/AND FAILED TO MAINTAIN, ALTER, MODIFY OR/AND OPERATE AS AN AGENT, SERVANT, AUTHORITY, AND CONTRACTOR OF THE DEFENDANTS, WHO MAY OR MAY NOT OWN, LEASE, MANAGE, OPERATE, SECURE, INSPECT, REPAIR OR/AND MAINTAIN THE INTERSECTION CURB RAMP IN QUESTION PURSUANT TO THE ACCESSIBILITY STRUCTURAL REQUIREMENTS SET FORTH IN THE ADAAG 28 C.F.R. § PT 36. APP. A. SECT 4, SUBSECTIONS 4.3-4.8 OF 28 C.F.R. § 35.150-35.151 ET. SEQ., INCLUSIVE TO THE STATE ACCESSIBILITY REQUIREMENTS OF NRS 338.180(1),(2). THEREFORE, THESE DEFENDANTS FAILURE TO COMPLY WITH FEDERAL AND STATE ACCESSIBILITY REQUIREMENTS, ARE LIABLE FOR PLAINTIFFS INJURIES.

CONCLUSION

THE PLAINTIFF CAN AND WILL PRESENT EVIDENCE THAT DEFENDANTS NAMED HEREIN KNEW AND WERE AWARE OF THE CURB RAMP STATE AND FEDERAL ACCESSIBILITY REQUIREMENTS AND FAILED TO COMPLY WITH THOSE REQUIREMENTS. IN DOING SO, THE PLAINTIFF PRAYS FOR A FAVORABLE DECISION IN HIS FAVOR.

DAMAGES REQUESTED

1.)

THE PLAINTIFF SEEKS COMPENSATORY DAMAGES PURSUANT TO THE APPLICABLE STATUTE OR/AND STATUTES UNDER NRS CHAPTER 41, IN THE AMOUNT OF "\$100,000" (ONE HUNDRED THOUSAND DOLLARS) THE MAXIMUM AMOUNT ALLOTTED FOR THE INJURIES SUSTAINED AND CONTINUED MEDICAL TREATMENT WITH LONG TERM PAIN MANAGEMENT.

2.) THE PLAINTIFF ALSO SEEKS PUNITIVE DAMAGES IN THE SAME AMOUNT AS COMPENSATORY DAMAGES FOR DEFENDANTS FAILURE TO COMPLY WITH FEDERAL AND STATE ACCESSIBILITY REQUIREMENTS LISTED IN THIS COMPLAINT THAT CAUSED THE PLAINTIFFS INJURIES AND WILL CAUSE OTHER INJURY TO UNKNOWN PEDESTRIANS IF NOT MODIFIED, ALTERED, OR/AND RECONSTRUCTED IN COMPLIANCE WITH THE FEDERAL AND STATE ACCESSIBILITY REQUIREMENTS LISTED AND REQUIRED BY THE ADA'S ACCESSIBILITY GUIDELINES PROPAGATED BY THE DEPARTMENT OF JUSTICE FOR LOCAL GOVERNMENTS AND MUNICIPALITIES.

3.) THE PLAINTIFF SEEKS A COURT ORDER, ORDERING THE DEFENDANTS LIABLE FOR THE OPERATION, CONSTRUCTION, ALTERATION, MODIFICATIONS OR/AND STRUCTURAL CHANGES TO PUT FORTH A "TRANSITION PLAN" TO CONDUCT THE NECESSARY STRUCTURAL CHANGES IN COMPLIANCE WITH 28 CFR § 35.151 ET. SEQ.⁽¹⁾

FN 1. THE AMERICANS WITH DISABILITIES ACT OF 1990 AND ITS ACCESSIBILITY GUIDELINES SET FORTH IN TITLE 28 CODE OF FEDERAL REGULATIONS 28 CFR PT 36. APP. A. SECTION 4 ET. SEQ.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.


A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 11/15/20

Signature of Plaintiff

Printed Name of Plaintiff

 "ACTING IN PRO-SE"
EDWARD E. SEELY - 453 N. 11ST APT B. LAS VEGAS, NV
89101

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

CERTIFICATE OF SERVICE

I, EDWARD E. SEELY certify that on this date I did serve a true and correct copy of the foregoing Motion upon Respondent(s), via U.S. Mail, by placing same in the United States DISTRICT COURT, DISTRICT OF NEVADA MAIL BOX ADDRESSED TO;

CLERK, OF
- U.S. DISTRICT COURT DISTRICT OF NEVADA
333 LAS VEGAS BLVD, SOUTH, LAS VEGAS
NV, 89101

- AND -

- CITY OF LAS VEGAS - 495 S. MAIN ST
LAS VEGAS, NV 89101
- AND -
- NEVADA STATE PUBLIC WORKS DIVISION
2300 MCLEOD ST, LAS VEGAS, NV 89104

Dated this 15TH day of NOVEMBER, 2020.

By:  EDWARD E. SEELY
Movant, In Proper Person

AFFIRMATION PURSUANT TO NRS 239B.030

** I certify that the foregoing document DOES NOT contain the social security number of any Persons.

10/15/20
(Date)


(Signature)

SWORN DECLARATION UNDER PENALTY OF PERJURY

STATE OF NEVADA
COUNTY OF CLARK

SWORN DECLARATION UNDER PENALTY OF PERJURY

I, EDWARD E. SEELY, declare from my personal knowledge that the following facts are true:
(name)

(State the facts in as many numbered paragraphs as are needed. Attach additional pages if necessary)

1. I, EDWARD E. SEELY DECLARE THAT ON NOVEMBER 16TH, 2020 SUFFERED A BROKEN TIBIA AS A RESULT OF A CURB RAMP BEING TOO STEEP DESCENDING TO THE CHARLSTON BLVD CROSSING. THIS RESULTED IN SURGICAL TREATMENT AND HOSPITALIZATION
2. THE CURB RAMP ON MARYLAND PKWY GOING SOUTHBOUND TO CHARLSTON BLVD HAVE BEEN MODIFIED OR ALTERED IN COMPLIANCE WITH THE CURRENT A.D.A ACCESSIBILITY STRUCTURAL REQUIREMENTS, BUT STOPPED BEFORE AND AT CHARLSTON BLVD
3. THE PLAINTIFF IS A PARAPLEGIC CONFINED TO A WHEELCHAIR AND USES MARYLAND PKWY AS A PATH OF TRAVEL TO DO HIS SHOPPING
4. THE CITY (JOHN/JANE DOES 1-10) AND PUBLIC WORKS (JOHN/JANE DOES 1-10) ARE RESPONSIBLE FOR MAINTAINING, MODIFYING OR ALTERING ALL ITS PEDESTRIAN PATHS OF TRAVEL, RIGHTS OFWAYS AND CURB RAMP TO COMPLY WITH THE A.D.A ACCESSIBILITY REQUIREMENTS
5. THE DEFENDANTS FAILURE TO MAINTAIN, ALTER, OR MODIFY IS CURB RAMP AT CHARLSTON BLVD TO COMPLY WITH THE CURRENT A.D.A ACCESSIBILITY REQUIREMENTS OF 28 CFR § 35.150-35.151 ET. SEQ., (28 CFR § PT. 36. APP A. SEC 4. SUBPART 4.3-4.8

I declare under penalty of perjury that the foregoing is true and correct. (See 28 U.S.C. sec 1746, N.R.S.208.165). Executed on 10/13/20
(date)

EDWARD E. SEELY
(Print Name)


(Signature)

EDWARD E. SEELY
453 N. 11TH APT B
LAS VEGAS NV 89101

11/16/20

DROPPED

IN

DROP BOX

NEEDS TO
BE STAMPED
FILED

ay PLEASE

TO CLERK,
U.S. DISTRICT COURT
333 S. LAS VEGAS BLVD
LAS VEGAS, NV 89101